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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/509,867

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Nahoko Takano

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9778

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EXAMINER

BRANDT, CHRISTOPHER M

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

05/18/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/509,867	Applicant(s) TAKANO ET AL.	
	Examiner CHRISTOPHER M. BRANDT	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 70-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 70-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 June 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/10/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 10, 2009 has been entered.

Information Disclosure Statement

The information disclosure statement submitted on March 10 has been considered by the examiner and made of record in the application file.

Response to Amendment

This Action is in response to applicant's arguments filed on March 10, 2009. **Claims 70-75** are still currently pending in the present application.

Response to Arguments

Applicant's arguments filed March 10, 2009 have been fully considered but they are not persuasive.

With regard to applicant's argument that Chang does not disclose controlling a reception quality of a transmission control signal included in the downlink dedicated channel sent only from the packet transmission base station, the examiner respectfully disagrees. Chang discloses a HSDPA system employing the FCS scheme, the UE can exchange data with only the Node B selected as the best cell among the Node Bs, hence the UE carries out the transmission power control with only the Node B selected as the best cell (column 5 lines 34-47).

As a result, Chang does disclose controlling a reception quality of a transmission control signal included in the downlink dedicated channel sent only from the packet transmission base station.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 70-75 are rejected under 35 USC 103(a) as being unpatentable over **Chang et al.** (US Patent 7,010,318 B2, hereinafter **Chang**) in view of **Willenegger** (US PG PUB 2002/0009061 A1).

Consider **claim 70 (and similarly applied to claims 72 and 74)**. Chang discloses a cellular system comprising a mobile station and a plurality of base stations that are in a handover state with said mobile station and that set uplink and downlink dedicated channels with said mobile station, one of said base stations, as a packet transmission base station, performing transmission of a packet to said mobile station by the use of a shared channel (column 1 line 41 – column 2 line 3, column 3 lines 54-57, read as the power-up/down commands are transmitted using a TPC (Transmission Power Control) bit in a dedicated physical control channel (DPCCH) of a dedicated physical channel (DPCH) established between the transmitter and receiver, where this procedure can take place during a user equipment being located in a soft handover (SHO) region. This procedure occurs by creating a TPC bit considering states of the downlink channel signals received from two or more cells in order to control uplink transmission power), characterized in that: said mobile station comprises:

means for controlling a transmission power control signal included in the downlink dedicated channel sent only from the packet transmission base station, by controlling a transmission power of a signal received through the downlink dedicated channel (column 1 lines 63-67, column 2 lines 14-18, read as the UE receives downlink channel signals from two or more cells, measures power levels of the received downlink channel signals, and transmits a TPC bit having a corresponding bit value to the cells through the radio links).

Chang substantially discloses the claimed invention but fails to explicitly teach controllably changing a target reception quality (Chang discloses controllably changing a transmission power).

However, Willenegger discloses controllably changing a target reception quality (paragraph 47, read as the base station is able to determine the target SNR and is able to scale the transmit power for these channels accordingly to achieve the target SNR (paragraph 47).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the teachings of Willenegger into the invention of Chang in order to maintain the signal quality of a transmission received at the user terminal as close as possible to a target signal-to-noise-plus interference ratio (paragraph 40).

Consider **claim 71 (and similarly applied to claims 73 and 75)**. Chang and Willenegger disclose wherein the mobile station further comprises: means for producing the transmission power control signal for controlling transmission power of the downlink dedicated channel on the basis of the target SIR to transmit the transmission power control signal to the packet transmission base station through the uplink dedicated channel (Chang; column 1 lines 63-67, column 2 lines 14-18, Willenegger: paragraph 47).

Conclusion

Any response to this Office Action should be **faxed to** (571) 273-8300 **or mailed to:**

Commissioner for Patents
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Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Brandt whose telephone number is (571) 270-1098.

The examiner can normally be reached on 7:30a.m. to 5p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 2617

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Christopher M. Brandt

C.M.B./cmb

May 12, 2009

/George Eng/

Supervisory Patent Examiner, Art Unit 2617